IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WA.No. 1508 of 2007

AGAINST THE JUDGEMENT DATED 23.5.2007 IN WPC.12387/2007
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APPELLANT/PETITIONER:

GRACY, AGED 42,
W/O. JAYARAJ, GRACY HOUSE, NADUVETTUVILA,
NADOORKOLLA P.O. AMARAVILA, THIRUVANANTHAPURAM.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS/RESPONDENTS:
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1. VIJAYA BANK,
REPRESENTED BY THE MANAGER, SASTHAMANGALAM BRANCH,
T.C.9/1494, AKSHYA TOWERS,SASTHAMANGALAM JUNCTION,
THIRUVANANTHAPURAM-10.

2. CENTRAL BUREAU OF INVESTIGATION,
REPRESENTED BY ITS SUPERINTENDENT,
OFFICE OF C.B.I., ERNAKULAM.

3. JAYARAJ G.,
GRACY HOUSE, NADUVETTUVILA, NADOORKOLLA P.O.
AMARAVILA, THIRUVANANTHAPURAM.

4. N. JAYARAJ,
RAJ BHAVAN, KARODE, KARUMARAM, KAKKAVILA,
THIRUVANANTHAPURAM.

R2 BY STANDING COUNSEL MR.S.SREEKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1508 of 2007

Dated, this the 26th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

This appeal is directed against the orders passed by the learned Single Judge in W.P.(C) No.12387 of 2007 dated 23rd May, 2007.

2. The petitioner was before this Court, inter alia, questioning the notice issued by the first respondent Bank under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Act for short).

3. Taking into consideration the difficulties suffered by the petitioner, the learned Single Judge while entertaining the writ petition, that too on the undertaking given by the petitioner, had stayed the recovery notice issued by the Bank under Section 13(2) of the Act. After obtaining the interim order of stay and before the expiry of the time that was granted, the petitioner once again made an application before the Court for extension of the time for payment of the amount due under Section 13(2) notice issued by the Bank.

4. The learned Judge being of the opinion that once the petitioner gave an undertaking before the Court, the petitioner definitely has to comply with the undertaking and therefore, he is not entitled for any relief under the extra ordinary and discretionary jurisdiction of this Court, and accordingly has rejected the writ petition. That is how the petitioner is before us in this writ appeal.

5. The objective purpose of the Securitisation Act is to effect speedy recovery of the amounts due to the financial institutions from the borrowers. The vires of the Act has now been upheld by the apex Court in the case of **Mardia Chemicals Ltd. and others** v. **Union of India and others** [(2004) 4

SCC 311].

6. Taking into consideration the difficulties suffered by the petitioner, that too on an undertaking given by the petitioner, this Court had granted some breathing time to the petitioner to pay off the dues under the Act. The petitioner instead of complying with the orders passed by this Court, has made yet another application for extension of the time. The learned Judge, being of the opinion that the petitioner's request for extension of time is not bona fide, and therefore, has rejected the application and consequently the writ petition also.

7. In our view, in the normal course, this Court is not expected to interfere with the revenue recovery notices issued by the financial institutions, especially when the provisions of the Act have been upheld by the Supreme Court. But, under certain circumstances, when this Court exercises its extra ordinary jurisdiction, the party who obtained the relief has to necessarily comply with the orders and directions issued. If they commit any default, this Court is entitled to reject the writ petition. That is what has been done by the learned Judge in the present case.

8. After going through the orders passed by the learned Single Judge, we are of the opinion that the learned Judge has not committed any error whatsoever which would call for our interference in this appeal. Accordingly the writ appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns